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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable John Breaux
United States Senate
516 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Breaux:

This letter responds to your correspondence concerning the Commission's Notice of Proposed Rulemaking in PR Docket No. 93-61, to develop regulations for Automatic Vehicle Monitoring (AVM) systems operating in the 902-928 MHz band. In your letter you express concern regarding the continued viability of Part 15 devices that presently share this part of the spectrum. You also reference the Commission's report to the Secretary of Commerce of August 9, 1994 addressing the Preliminary Spectrum Reallocation Report.

The shared use of the 902-928 MHz band adds a level of complexity to the effort to bring this proceeding to resolution. Part 15 devices and AVM systems are but two of five uses in this band. The spread spectrum-based technology of Part 15 devices has undergone substantial development and is reflected in a range of products. The record reveals the potential for even further investment opportunity. With regard to AVM, the current "interim" rules have been in place for 20 years. The record reflects successful implementation as well as the promise for a wide variety of advanced transportation-related services enhancing public safety and convenience and increasing efficiency for the private transportation industry. Notably, some parties argue that the continued interim nature of the rules is inhibiting investment in AVM systems.

The Commission's effort has been to determine whether accommodation among and between different users is possible. Your point that the legitimate expectations on the part of consumers and manufacturers of Part 15 devices must be part of the balance is well taken. Similarly, the substantial investment and growth opportunities AVM holds are also interests to be weighed. Pursuing a resolution that allows all parties the opportunity to pursue their business plans, instead of the Commission selecting one interest to the exclusion of others, is the optimal resolution. Where all parties remain viable competitors, even though they must undertake efforts to adapt, the goal of providing a broad range of consumer choice is more likely to emerge.

The Commission's report to the Secretary of Commerce in August 1994 related to its recommendations to the Commerce Department ("Commerce") as it carried out its responsibility to identify spectrum for reallocation from federal government to private sector use, as required by the Omnibus Budget Reconciliation Act of 1993. Part of the Preliminary Spectrum Reallocation Report ("Preliminary Report") prepared by Commerce addressed spectrum within the 2402-2417 MHz band. The Preliminary Report identified the 2402-2417

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MHz band as immediately available for exclusive non-government use. The Commission disagreed with this perspective and stated that because of the existing non-government use, reallocation of this band offered limited potential for development of new commercial services.

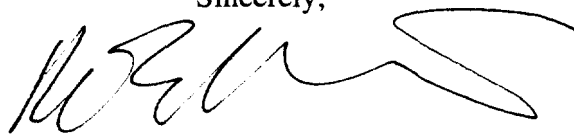
Uses in the 2402-2417 MHz band are similar, but not identical, to the 902-928 MHz band that is the subject of the AVM proceeding. Beyond its current use by the federal government, it is shared by amateur service, Industrial, Scientific and Medical (ISM) devices, and Part 15 devices. The reallocation recommendation is the most controversial with regard to ISM and Part 15 devices. Most significantly, the 2400-2500 MHz band is occupied by over 80 million microwave ovens, which are ISM devices. It is in this context the Commission commented on the capability of a new licensed service to coexist with present users of the 2402-2417 MHz band.

The information submitted to the Commission in the proceeding gives credence to seeking a spectrum plan where Part 15 devices and AVM systems can achieve their service objectives without impeding the other's use. This effort requires an analysis of the technical, legal, and economic factors involved, as well as a sense of future developments. The proficiency of the parties themselves to resolve interference is a significant element. In weighing the various options and issues, the Commission is committed to a structure that will best enhance competition and choice. Establishing a spectrum plan that, while requiring accommodation, allows users within a particular service to compete, should bring about more efficient and effective use of the spectrum.

I appreciate very much receiving your views on this proceeding as they reflect important issues that the Commission must resolve. Please call upon me if I can provide any additional information.

With best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reed E. Hundt', with a stylized, sweeping flourish extending to the right.

Reed E. Hundt
Chairman

JOHN BREAU
LOUISIANA

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WASHINGTON OFFICE
(202) 224-4623
TDD (202) 224-1986

United States Senate
WASHINGTON, DC 20510

November 3, 1994

STATE OFFICES

ONE AMERICAN PLACE, SUITE 2030
BATON ROUGE, LA 70825
(504) 382-2050

THE FEDERAL BUILDING
705 JEFFERSON STREET, ROOM 103
LAFAYETTE, LA 70501
(318) 262-6871

WASHINGTON SQUARE ANNEX BUILDING
211 NORTH 3RD STREET, ROOM 102A
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(504) 589-2531

CENTRAL LOUISIANA
(318) 487-8445

Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Dear Chairman Hundt:

I understand that the Commission is proposing to issue licenses and to allow expanded Location and Monitoring Service across the entire 902-928 MHz band. I have been told that a significant number of respondents in this docket have given documentation to the Commission and that the proposed use of the 902-928 MHz band by the new licensed LMS providers is technically incompatible with the existing unlicensed uses of this band. There are allegations that the Commission has been unresponsive to petitions by various parties in this proceeding to initiate testing to determine compatibility.

My constituents report that they are having difficulty with the proposal to permit expansion of licensed systems among unlicensed uses. The Preliminary Spectrum Reallocation Report contains this statement:

"Our attempts to encourage this development have been successful and today millions of Part 15 spread spectrum devices provide a wide variety of communications services as well as services such as automated meter reading, inventory control, package tracking and shipping control, alarm devices, local area networks, and cordless phones...the majority of Part 15 spread spectrum devices currently operate in the 902-928 MHz band."

The proposal in the Notice seems even more dubious in view of findings by the National Telecommunications and Information Administration recognized in the same report. NTIA found, "that there is very efficient use of this band." The Commission's report continues by saying, "installing a licensed service in this band may result in a loss to the public of Part 15 spread spectrum communications equipment."

If statements in the Commission's August 9 report are correct (that millions of Part 15 devices are in use and

installing licenses services in the 902-928 MHz band may inflict costly harm) I would appreciate your comments as to justifications for the expansion. While I understand that Part 15 devices are not in a priority position in the spectrum band, the importance of the electric utilities automated meter reading devices in controlling costs demands an equitable solution.

My utmost concern is the ultimate cost to the consumer. Every attempt should be made to ensure that consumers are not adversely affected by the proposal. I appreciate your assistance in providing me with an explanation.

Regards.

Sincerely,

A handwritten signature in black ink, appearing to read "John", with a stylized, cursive script.

JOHN BREAU
United States Senator

JB:app